

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-185983

DATE: October 16, 1980

MATTER OF: James R. Drayer - Reconsideration of claim for temporary quarters allowance

DIGEST: Employee requests reconsideration of claim for temporary quarters allowance while he occupied residence at new duty station prior to settlement. Although he may not have had knowledge of regulation limiting reimbursement to "temporary quarters", employee's entitlement is limited to that provided under law and regulations. Employee may not be reimbursed for all out-of-pocket expenses but only those expenses allowable under Federal Travel Regulations.

This decision responds to the request for reconsideration by Mr. James R. Drayer of our decision B-185983, September 17, 1976, denying his claim for temporary quarters allowance incident to his transfer to a new duty station.

In our prior decision we held that where Mr. Drayer moved into a residence he had contracted to purchase at the new duty station, intending to occupy these quarters on a permanent basis, he could not be paid temporary quarters allowance even though he paid rent to the owner of this residence prior to settlement on his contract for purchase. In requesting reconsideration of our prior decision, Mr. Drayer argues he had no knowledge of the regulations limiting reimbursement to temporary, rather than permanent quarters. In addition, he points out that since it takes 30 days to close a home loan, housing is needed and hotel or motel costs for that period would be higher than the \$10 per day rent he paid. Finally, Mr. Drayer contends that the regulations purport to reimburse the employee for his out-of-pocket expenses incurred in the transfer, and he, therefore, claims reimbursement for the period of July 1975, for rent paid on the residence at the new duty station as well as the mortgage payment and taxes on his residence at the old duty station, less the rent he received that month for his residence at the old duty station.

As we pointed out in our prior decision, an employee's entitlement to subsistence while occupying temporary quarters terminates when he occupies permanent residence quarters. Federal Travel

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Regulations (FTR) (FPMR 101-7), pars. 2-5.2c and f. Although Mr. Drayer may not have had actual knowledge of the restrictions in these regulations, his entitlement is limited to those expenses allowable under the applicable statute and regulations. Our Office has no authority to waive or modify regulations issued pursuant to law, such as the Federal Travel Regulations. See Paul R. Thomas, B-185440, July 13, 1976, and decisions cited therein. (The fact that Mr. Drayer may have saved the Government money by renting this residence instead of staying at a hotel or motel similarly does not affect his entitlement to temporary quarters allowance.)

(Mr. Drayer also argues that the regulations are intended to pay out-of-pocket expenses incident to a transfer. However, as we held in Thomas, supra, there is no authority to reimburse an employee for all the expenses he may incur nor was it the intent of the FTR to do so. Employees are entitled to reimbursement only for those expenses allowable under the FTR and subject to the limitations on reimbursement contained in those regulations. The items claimed by Mr. Drayer, rent, mortgage payments, and taxes, are not allowable under the FTR as either expenses while occupying temporary quarters or expenses incurred in connection with residence transactions. See FTR, Chapter 2, Parts 5 and 6.

(Accordingly, we sustain our prior decision denying Mr. Drayer's claim for temporary quarters allowance.)

Milton J. Forster

For The Comptroller General
of the United States